THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

W.P.NO.18964 OF 2005

-

Dated 13-09-2005

-

Between:

Kalisetti Dharma Rao S/o.Anjaiah,

Narasaraopet, Guntur.

…Petitioner

And

The Labour Court, rep. by its Presiding Officer,

Guntur, Guntur District and others

…Respondents

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

W.P.NO.18964 OF 2005

JUDGMENT:

The petitioner was employed as a Leading Hand in the A.P.S.R.T.C. He failed to report to duty from 10-06-1997 onwards, on the ground that he has fallen sick. Disciplinary proceedings were initiated against him, and a show cause notice was served

on 05-12-1997. On considering the explanation of the petitioner, the Corporation removed the petitioner from service with effect from 29-12-1997. Appeal and review preferred by the petitioner before the concerned authorities were rejected.

Thereafter, the petitioner filed I.D.No.164 of 2001 before the Labour Court, Guntur. The petitioner attained the age of superannuation, in the meanwhile.

Through its Award dated 14-12-2004, the Labour Court took the view that the punishment imposed on the petitioner was disproportionate to the charge, and accordingly set aside the order of removal. In view of the fact that the petitioner had already attained the age of superannuation, the Labour Court directed that the petitioner shall be deemed to be relieved on the date of removal i.e. 29-12-1997, adjusted to 31-12-1997, and be extended all the retirement benefits up to that date. The petitioner challenges the award, to the extent that the Labour Court denied the consequential benefits and back-wages, to him.

Heard the learned counsel for the petitioner and learned Standing Counsel for the respondents.

A perusal of the award passed by the Labour Court discloses that the charge against the petitioner was held proved, but the punishment imposed against him was treated as disproportionate. However, in formulating the relief, the Labour Court did not follow the settled principles. When the petitioner had attained the age of superannuation on 30-06-2001, there was no point in directing that
he shall deemed to have retired with effect from the date of removal. No basis is indicated for such a course of action. Even assuming that the petitioner cannot be extended the benefit of back-wages, on account of the fact that the charge against him was held proved, the date of his retirement cannot be advanced.

It has emerged that the petitioner had opted for the scheme of pension. He cannot be denied the benefit of the service, up to the age of superannuation, for that purpose.

Therefore, the writ petition is partly allowed, directing that the petitioner shall be entitled to count his service up to the date, on which he attained the age of superannuation, and the award of the Labour Court shall stand modified to that extent. In all other respects, it shall remain as it is. There shall be no order as to costs.

_____

L. NARASIMHA REDDY, J.

Dt.13-09-2005.

KO